IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2292 OF 2006

Santosh Vitthal Valunj .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Abhaykumar Apte for applicant

Mr.P.S.Hingorani, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd August 2006.

P.C.

. Mr.Apte learned Counsel for applicant accused submits that in this case, the provisions under Chapter V and more particularly under sections 41 and 42 of the N.D.P.S. Act, 1985,

which are mandatory, according to him, have not been complied with. In such circumstances, there is no question of the accused being convicted for the alleged offences. He submits that this does not, therefore, attract the bar under section 37(1)(b), inasmuch as, it is open for the applicant to point out that there are reasonable grounds for believing that the applicant is not guilty of the offences.

2. From a perusal of the bail application preferred in the trial court, it does appear to me that this point was raised. Ground No.6 in the application before the trial court does not set out with specific details as to whether there is compliance with the above mentioned provisions or not.

3. In my view, therefore, appropriate course would be to permit the applicant to raise the arforesaid pleas afresh and either apply for bail

in terms thereof or raise them at an appropriate stage during the course of trial. Leaving both courses open and keeping all contentions of both sides also expressly open, above application is disposed of.

(S.C.Dharmadhikari, J)